

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: Evelyn Roig, Assistant Town Clerk/954-797-1023

PREPARED BY: Evelyn Roig, Assistant Town Clerk

SUBJECT: Minutes

AFFECTED DISTRICT: n/a

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: December 2, 2009 Minutes (Regular Meeting)

REPORT IN BRIEF: Council meeting minutes from the December 2, 2009 Regular Meeting.

PREVIOUS ACTIONS: N/A

CONCURRENCES: N/A

FISCAL IMPACT: not applicable

RECOMMENDATION(S): Other -

Attachment(s): December 2, 2009 Minutes

REGULAR MEETING
December 2, 2009
7:00 PM

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:00 p.m. and was followed by the Pledge of Allegiance

2. ROLL CALL

Present at the meeting were Mayor Paul, Vice-Mayor Crowley and Councilmembers Caletka Luis and Starkey. Also present were Town Administrator Shimun, Town Attorney Rayson, Town Clerk Muniz and Assistant Town Clerk Roig recording the meeting.

3. OPEN PUBLIC MEETING

Patti Koch invited everyone to the Old Davie School Christmas event and Pet Story Time on December 17.

Dave Andrew announced the Toys in the Sun Run on Sunday, December 6th.

Barbara Tilley announced the Senior Turkey Dinner at the Pine Island Community Center. She stated curbing installation and palm tree removal were needed on 18th Street. Ms. Tilley said the State now planned to put the golf course up for auction, but there would be a covenant reservation that the property must remain a golf course.

Mr. Scott McLaughlin thanked Councilmembers who had shown up for the membership drive at Old Davie School in November.

Bill Liebowitz thanked Councilmembers who had attended the Veterans' Day event. He noted that weeds were overtaking the lake near the Veterans' Memorial, and asked the Town to address this problem.

Mr. Liebowitz referred to a broken swing set that had been removed last year from Veterans' Park, and noted that other swing sets in Town were scheduled for repair. He asked for new swings at Veterans' Park.

Mayor Paul closed the open public meeting.

Mayor Paul pulled Item 4.5 from the Consent Agenda. Councilmember Caletka requested that the September 21st and November 4th minutes be proofread for spelling. He pulled Item 4.11.

Vice-Mayor Crowley made a motion, seconded by Councilmember Luis, to approve the Consent Agenda, less Items 4.5 and 4.11. In a voice vote, all voted in favor. (Motion carried 5-0)

4. APPROVAL OF CONSENT AGENDA

Minutes

- 4.1 September 21, 2009 (Budget Meeting)
- 4.2 November 4, 2009 (Special Meeting - Wal-Mart)
- 4.3 November 4, 2009 (Regular Meeting)

Proclamation

- 4.4 Broward County Diversity and Inclusive Community Month - (January 2010)

Resolutions

- 4.5 **SETTLEMENT AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE FIRST AMENDMENT TO THE SETTLEMENT AND DEVELOPMENT AGREEMENT BETWEEN WAL-MART STORES EAST, L.P. AND THE TOWN OF DAVIE.(tabled from November 4, 2009)
- 4.6 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA (SBBC) TO ALLOW STUDENTS TO PARTICIPATE IN EMERGENCY MEDICAL SERVICE (EMS) FIELD CLINICALS.
- 4.7 **AGREEMENT AMENDMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE THE FOURTH AMENDMENT TO AN EXISTING LEASE AGREEMENT BETWEEN THE TOWN OF DAVIE AND AMERICAN TOWER, CONCERNING THE MONOPOLE TELECOMMUNICATIONS TOWER LOCATED AT 3600 S. FLAMINGO ROAD; AND PROVIDING FOR AN EFFECTIVE DATE.
- 4.8 **GRANT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE DAVIE POLICE DEPARTMENT TO PARTICIPATE IN THE JAG PROGRAM WITH THE BROWARD SHERIFF'S OFFICE AS THE LEAD AGENCY TO RECEIVE A \$ 130,911.00 GRANT FROM THE U.S. DEPARTMENT OF JUSTICE FOR LAW ENFORCEMENT PROGRAMS, AND AUTHORIZING ACCEPTANCE AND EXECUTION OF THE GRANT, IF AWARDED.
- 4.9 **STREET NAMING** - A RESOLUTION OF THE TOWN OF DAVIE TO CHANGE THE STREET KNOWN AS SOUTHWEST SIXTY-FIFTH WAY, IN DAVIE, FLORIDA TO READ DR. MICHAEL A. KRONK WAY (SOUTHWEST SIXTY- FIFTH WAY)
- 4.10 **SUPPORT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, TO CELEBRATE THE MONTH OF JANUARY AS BROWARD DIVERSITY COMMUNITY MONTH. FURTHER INSTRUCTING THE TOWN CLERK TO TRANSMIT SAME TO THE BROWARD COUNTY DIVERSITY COUNCIL AND PROVIDING FOR AN EFFECTIVE DATE.

Temporary Use Permit

4.11 TU 7-1-09, Digital Comm Link, 10450 State Road 84 (storage of material and equipment) (tabled from November 4, 2009)

5. DISCUSSION OF CONSENT AGENDA ITEMS

Resolutions

4.5 Councilmember Caletka objected to the agreement.

Mr. Rayson thanked all of the parties who had worked diligently to create this agreement and recommended Council approve it.

Mayor Paul opened the public hearing portion of the meeting.

Tucker Gibbs, attorney representing the Rolling Hills Homeowners Association, said his clients had opposed the 2006 site plan. Mr. Gibbs said the site plan process must not be a “rubber stamp” approval of the site plan described in the settlement agreement, but it must be reviewed pursuant to the 1989 Land Development Code and Comprehensive Plan.

Mr. Gibbs reported that Wal-Mart had addressed the concerns his clients had about the original Settlement Agreement. He wanted Wal-Mart’s representatives to confirm that this agreement did not require the Town Council to approve or reject the site plan, and that the site plan would meet the requirements of the 1989 Land Development Code and Comprehensive Plan.

Bill Spencer, Wal-Mart attorney, agreed that the site plan would be reviewed in a quasi-judicial proceeding.

Douglas Bell, Lake Estates resident and homeowners association board member, agreed that some concerns had been addressed, but felt the agreement granted Wal-Mart more rights than the original agreement and contained loopholes. Mr. Bell did not believe anyone could fully understand the agreement, and noted that the promise that there would be no outparcels was not stated in the agreement.

Joe Kazer said he had not been notified about this agreement, and he felt residents should have received more information. He believed this would result in a devaluation of nearby homes. Mayor Paul stated there had been a special meeting on November 4, 2009 regarding this.

Mayor Paul referred to the section of the agreement concerning variances, special exceptions, etc., and said a representative had indicated there would be no need for variances. She wanted to be sure that any variances went through the normal processes. Mr. Rayson confirmed this was the case, and Mr. Spencer agreed.

Mayor Paul referred to number 6 on page 4, which stated Wal-Mart may apply for site plan approval, and indicated this seemed open-ended. Mr. Spencer said they did intend to pursue site plan approval and this was just a language choice.

Councilmember Starkey recommended changing the language from “may” to: “shall, within 60 days of ratification of the first amendment...” Mr. Spencer said he could not approve this on behalf of his client. Mayor Paul asked if there would be an issue if Council made any changes to the document before approving it. Mr. Spencer felt there might be an issue for his client.

Mayor Paul requested clarification regarding the “Green, sustainable” prototype store Wal-Mart intended this to be. Mr. Spencer said “Green” and “sustainable” had no real definition, and Wal-Mart recognized that these terms meant “more efficient.” Mayor Paul said the Town had been informed that this was a goal.

Mayor Paul asked about the philosophy behind the language that exempted Wal-Mart from further Town impact fees, charges, etc. Mr. Spencer said he and Mr. Rayson had determined with the Zoning Administrator that there were no fees other than water and sewer and Mr. Rayson had recommended adding this language. Planning and Zoning Manager David Quigley said the fee schedules he provided were through the 2009 amendment to the impact fees.

Mayor Paul asked about limits on deliveries, and Mr. Spencer explained that the Wal-Mart trucks would be restricted, but local deliveries would be governed by local scheduling. Mr. Spencer said this would be included in the site plan approval.

If there was future redevelopment of the property, Mayor Paul did not want the Town to be tied to the 1989 agreement. Mr. Spencer said from a practical standpoint, this had not been a concern. Mr. Rayson said assuming the prototype Wal-Mart was developed, the parcel would be developed pursuant to the site plan they had already seen. As a practical matter, the agreement would therefore be over. Mr. Spencer reminded Mayor Paul that the genesis of this was a land use dispute and a 1983 constitutional assert of claims so the property could be developed. Inherent in this was that the agreement would “moot out” once the property was developed.

Mr. Gibbs referred to paragraph 25 of the original agreement, which stated the agreement would be binding on the property for five years after the effective date, and would automatically extend for additional five-year periods unless the Town affirmatively found that the developers were in default of the agreement. Mr. Gibbs said this meant the agreement would last forever until the developer was in default. Mr. Spencer said there was another perspective, and referred to another section that indicated the Town could apply updated policies only if a public hearing were held and specific provisions were met.

Mr. Gibbs said this could be settled if Wal-Mart agreed that the agreement terminated with the issuance of a Certificate of Occupancy. Mr. Spencer said he did not have the authority to speak to this.

Mayor Paul was concerned about displacing the wildlife that currently inhabited the area, and Mr. Spencer explained that the site plan included enhancement of the water area.

Councilmember Caletka said they had received concessions on site plans in the past, and asked if getting rid of the Spielman/Margolis agreement when the site plan was approved would be an appropriate concession. Mr. Rayson said it was clear to him that once the development existed, the Town could apply new code. Any new owner developing the property would not “be subject to the liberties” in the Spielman/Margolis agreement.

The Town’s Trial Counsel, Michael Burke, thought a court would construe this as a settlement and development agreement; it did not address redevelopment. He agreed that once the property was developed, the agreement would be fulfilled. Mr. Burke said it would be appropriate now or during site plan approval to indicate that the agreement would be null once the property was developed.

Mr. Gibbs confirmed for Councilmember Luis that his client would not contest this agreement. Councilmember Luis said the agreement was not perfect, but was the best they could do at this time.

Vice-Mayor Crowley strongly opposed the agreement and said he would vote against it.

Councilmember Starkey opposed the agreement as well. She felt the agreement left many questions unanswered. Councilmember Starkey said people feared the Town's hands would be tied well into the future. She suggested adding language specifying that after a five-year time period the current Land Development Regulations and codes would apply. Mr. Rayson felt that the concerns regarding the possibility that the site plan would not be approved or that Wal-Mart would sell the property were addressed in the agreement. He said the intention was to go through with the site plan and the Court had indicated it would not wait for the Town to "endlessly hit this tennis ball back and forth." He said Council needed to vote on this agreement.

Councilmember Starkey indicated specific language in the agreement with which she disagreed; in several places, the agreement indicated that Wal-Mart "may" and that the Town "shall." She felt that the language should be the same for Wal-Mart and the Town. She said her biggest concern was that the agreement went back to the Land Development Regulations of 1989. She also wanted the specific prototype defined in case Wal-Mart came up with a new prototype in the future. Councilmember Starkey wanted to make sure this was time certain, and that there would be a review if nothing were done in five years.

Councilmember Starkey was concerned about the different interpretations regarding fees. She believed there were fees other than water and sewer for which Wal-Mart must be responsible. Mr. Quigley confirmed that the fire fees would be included on the tax bill. He stated there were various inspection fees, and a fire service impact fee that was included with the building permit. Mr. Rayson stated Wal-Mart had agreed to pay all standard fees. Mr. Spencer said the agreement indicated this, and that they would not pay local road concurrency fees.

Councilmember Starkey referred to a portion of the agreement that indicated Wal-Mart would not be subject to further Town impact fees, charges, impositions and assessments...other than as required by Broward County. She asked where it stated that Wal-Mart would be responsible for other impact fees. Mr. Spencer said he had discussed this with Mr. Rayson and this was why they had included paragraphs 16.1 and 16.3.

Councilmember Starkey wanted to specify that Wal-Mart would pay any fees relating to development, and Mr. Spencer reminded her that this would be beyond the agreement.

Regarding whether the parties had been afforded ample opportunity to address the issues, Councilmember Starkey stated the second hearing was taking place this evening because Council had not received the last amendment until the last minute before their previous meeting and Council had agreed to postpone discussion until this meeting. Councilmember Starkey also disagreed with the statement that the agreement was fair and reasonable for all circumstances.

Vice-Mayor Crowley made a motion, seconded by Councilmember Starkey, to deny. In a roll call vote, the vote was as follows: Mayor Paul - no; Vice-Mayor Crowley

- yes; Councilmember Caletka - no; Councilmember Luis – no; Councilmember Starkey – yes. (Motion failed 2-3)

Councilmember Luis made a motion, seconded by Councilmember Caletka, to approve.

Mayor Paul suggested adding language indicating that once development was complete, the agreement went away. Mr. Rayson remarked that this change must be agreed to by Wal-Mart; it was not part of the agreement.

Mr. Burke reminded Council that the Town had had approved an agreement in 1989 and he felt it would not be easy to accomplish changes to this agreement tonight.

Mayor Paul said she had wanted to be sure that the site plan was subject to quasi-judicial review, and not outside the Town's control, and this accomplished that.

Councilmember Starkey wanted to include a five-year sunset for the agreement. Mr. Burke explained that Mr. Spencer had reviewed this with his clients, and this was what they were prepared to agree to. Mr. Rayson said paragraph four of the agreement stated that "Upon the execution of the first amendment by Wal-Mart and the Town, the parties agreed to immediately and expeditiously initiate such actions as may be required by the first amendment." This meant both parties would move toward the site plan.

Mr. Gibbs offered a possible solution to the issue of the old agreement's expiration. He suggested approving the agreement tonight and passing a resolution directing Mr. Rayson to meet with Mr. Spencer to negotiate an amendment that would cause the agreement to sunset on issuance of a Certificate of Occupancy. Mr. Rayson said he agreed to continue discussion with Mr. Spencer without a resolution.

Mr. Burke said at the status conference on Friday, he would indicate that the agreement had been approved, and that the Town Council had raised an issue regarding the agreement's sun setting and had directed Mr. Rayson to discuss this with Wal-Mart representatives.

In a roll call vote, the vote was as follows: Mayor Paul - yes; Vice-Mayor Crowley - no; Councilmember Caletka - yes; Councilmember Luis – yes; Councilmember Starkey – no. (Motion carried 3-2)

Mayor Paul passed the gavel to Vice-Mayor Crowley.

Mayor Paul made a motion, seconded by Councilmember Caletka, to direct Mr. Rayson to bring up at the Friday hearing, Council's concerns regarding the sun setting of the 1989 agreement and to continue negotiating regarding this. In a roll call vote, the vote was as follows: Mayor Paul - yes; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Luis – yes; Councilmember Starkey – no. (Motion carried 4-1)

Temporary Use Permit

4.11 Councilmember Caletka said he was still "ardently opposed" to this, but respected Councilmember Starkey's position. He believed an alternate site could be found.

Councilmember Luis remarked that I-595 must be repaired. He felt that this would not hurt the Town, and opposition amounted to "us messing with somebody because we have the power to do it and it's not right."

Councilmember Starkey did not believe this was appropriate for this site, and thought it would add truck traffic to the area. She added that there would be no landscape/buffer improvements of the site.

Sam Engle explained that they would remove some invasives and put a ficus hedge on the west side of the property. He confirmed for Mayor Paul that this was a temporary use, and was only storage for the Road Rangers, not for construction vehicles.

Councilmember Luis made a motion, seconded by Mayor Paul, to approve.

Councilmember Caletka suggested amending the motion to require that landscaping be brought up to code.

Mr. Engle said there was no landscape requirement for a temporary use. He stated the east side had a fence and the south side was blocked by the adjacent building. The invasives on the site were adding screening.

Mr. Shimun suggested requiring removal of invasives and bringing the landscape up to code at the end of the permit.

Mr. Engle said the property would be landscaped when the property was developed.

Vice-Mayor Crowley suggested amending the motion to indicate that there would be no extensions or renewals after three years. Councilmember Luis and Mayor Paul agreed to this amendment.

In a voice vote, with Councilmember Caletka and Councilmember Starkey dissenting, all voted in favor. (Motion carried 3-2)

6. PUBLIC HEARING

Ordinances - Second and Final Reading

- 6.1 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF THE TOWN OF DAVIE BY AMENDING TOWN CODE SECTION 12-243(D)(1) ENTITLED "ELECTION CAMPAIGN SIGNS"; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**(tabled from November 4, 2009). **{Approved on First Reading October 7, 2009 subject to the 50 foot separation of signs for the same candidate; and corner lots to be treated differently. The vote is as follows: Mayor Paul – yes; Vice Mayor Crowley – yes; Councilmember Caletka – yes; Councilmember Luis- absent; Councilmember Starkey – yes.}** *Local Planning Agency recommend approval subject to: Changes: (b) insert “a single property owner or single folio number” where Mr. Stallone indicated (b) remove the word ~~and~~ and add “such signs shall” where Mr. Stallone indicated; (b) add the text at the end of paragraph (b) regarding traffic visibility or creating any similar type of nuisance, etc. as Mr. Stallone indicated ;e) Agency members suggested that the responsible person be the property owner;(d) keep the \$100 bond.*

Mr. Rayson read the ordinance by title.

Mayor Paul opened the public hearing portion of the meeting.

Phil Busey hoped the Council would not approve “micromanagement” of campaign signs. He said this was very confusing, and raised constitutional issues. Mr. Busey requested Council emphasize enforceability and public safety only.

As no one else spoke, Mayor Paul closed the public hearing portion of the meeting.

Mayor Paul agreed there were constitutional issues. She believed they could not limit duration, number of signs, and sometimes size of sign sited on private property. Since they also intended to prohibit signs in right-of ways and on public property, she wondered what was left as far as the ordinance was concerned. Mayor Paul felt the enforceability issue was very important, and that the ordinance would have to be applied equally to everyone.

Code Compliance Official Danny Stallone explained that the ordinance had evolved in response to residents’ concerns. He stated he had a newer draft, which was closer to the original, which he believed was preferable to the current draft.

Councilmember Luis wondered what the problem was with the original ordinance. He did not favor this new version, as he felt it impinged on free speech rights. Mayor Paul remarked that the existing ordinance had constitutional issues, such as a 30-day time limit.

Vice-Mayor Crowley made a motion, seconded by Councilmember Starkey, to table to December 16. In a voice vote, with Councilmember Luis dissenting, all voted in favor. (Motion carried 4-1)

6.2 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 12, LAND DEVELOPMENT CODE, BY AMENDING SECTION 12-107, LANDSCAPING STANDARDS FOR LOTS AND SITES, SECTION 12-284, FENCES, MAILBOXES, BUS STOPS AND ENTRANCEWAY FEATURES, SECTION 12-286, INTENT, APPLICABILITY AND BOUNDARIES, AND SECTION 12-288, INCENTIVES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from November 17, 2009) {Approved First Reading November 4, 2009 subject to Homeowners Associations are required to do maintenance will continue, and Homeowners Association documents must be amended and notification be given to residents that they are liable. The vote was as follows: Mayor Paul– yes; Vice-Mayor Crowley – yes; Councilmember Caletka – no; Councilmember Luis– yes; Councilmember Starkey – yes. }**
(tabled from November 17, 2009)

Mr. Rayson read the ordinance by title.

Mayor Paul opened the public hearing portion of the meeting.

Bill Laystrom said he was comfortable with the 125-foot requirement for the gates, but asked that the guardhouse requirement be made 100 feet. Mayor Paul wanted the measurement to be from the edge of the road, not the right-of-way, and Vice-Mayor Crowley agreed, noting that the width of the right-of-ways varied. Mr. Laystrom said this was acceptable to him. Councilmember Caletka remarked that this could move the guardhouse and gate much closer to the road.

Councilmember Starkey recommended the requirement be 100 feet from the road right-of-way or edge of pavement, whichever was greater.

As no one else spoke, Mayor Paul closed the public hearing portion of the meeting.

Vice-Mayor Crowley made a motion, seconded by Councilmember Luis, to approve, subject to the requirement that guardhouses be located 100 feet from the edge of pavement and gates be located 125 feet from the edge of pavement. In a roll call vote, the vote was as follows: Mayor Paul - yes; Vice-Mayor Crowley - yes; Councilmember Caletka - no; Councilmember Luis – yes; Councilmember Starkey – yes. (Motion carried 4-1)

- 6.3 **AGREEMENT AMENDMENT - AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE FIREFIGHTERS PENSION TRUST FUND TO ADOPT THE PENSION PROVISIONS OF THE 2008 - 2011 FIREFIGHTER COLLECTIVE BARGAINING AGREEMENT; AMENDING SECTION FOURTEEN OF THE PLAN TO PROVIDE FOR A FIVE YEAR DROP WITH DECLINING ELIGIBILITY FOLLOWING THE FIRST DAY OF A MEMBER'S TWENTY-SIXTH (26th) YEAR OF EMPLOYMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE. {Approved First Reading November 17, 2009 The vote was as follows: Vice-Mayor Crowley – yes; Councilmember Caletka – yes; Councilmember Luis– yes; Councilmember Starkey – yes. }**

Mr. Rayson read the ordinance by title.

Mayor Paul opened the public hearing portion of the meeting. As no one spoke, Mayor Paul closed the public hearing portion of the meeting.

Councilmember Starkey made a motion, seconded by Vice-Mayor Crowley, to approve.

Adam Levinson, attorney representing the pension plan, said this agreement was negotiated by the Union and the Town. He confirmed that this would save the Town \$188,000.

In a roll call vote, the vote was as follows: Mayor Paul - yes; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Luis – yes; Councilmember Starkey – yes. (Motion carried 5-0)

- 6.4 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING APPLICATION LA(TXT) 10-1-09, AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY UPDATING THE CAPITAL IMPROVEMENTS ELEMENT WITH THE ADOPTED 5-YEAR CAPITAL PROJECTS PROGRAM FOR FY 2009-2013 PURSUANT TO CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR FILING WITH THE DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN**

EFFECTIVE DATE. {**Approved First Reading November 17, 2009**
The vote was as follows: Vice-Mayor Crowley – yes;
Councilmember Caletka – yes; Councilmember Luis– yes;
Councilmember Starkey – yes. }

Mr. Rayson read the ordinance by title.

Mayor Paul opened the public hearing portion of the meeting. As no one spoke, Mayor Paul closed the public hearing portion of the meeting.

Mayor Paul referred to the mention of the Van Kirk parcel, which indicated there was \$252,000 available for District 4 from the Open Space Bond. Councilmember Luis believed his District was out of Open Space Bond money.

Public Works Director Manny Diez said this was the 2009-2013 Capital Budget; at the time it was adopted, this was the identified funding source. Staff would request amendments from Council in the future. Mr. Quigley explained that the Capital Improvement Plan would be sent to the Department of Community Affairs because there were State requirements for public facilities. Mayor Paul was concerned about transmitting something that was not correct, but Mr. Quigley explained that this would cause no problems when transmitted to the Department of Community Affairs.

Councilmember Caletka made a motion, seconded by Councilmember Luis, to approve. In a roll call vote, the vote was as follows: Mayor Paul - no; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Luis – yes; Councilmember Starkey – no. (Motion carried 3-2)

7. APPOINTMENTS

7.1 Vice-Mayor Crowley

7.1.1 Parks and Recreation Advisory Board (one exclusive appointment - term expires April 2010) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

7.1.2 Open Space Advisory Committee Agency (one exclusive appointment - term expires April 2010)

7.2 Councilmember Luis

7.2.1 Youth Education and Safety Advisory Committee (one exclusive appointment - term expires April 2010) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

7.3 Councilmember Starkey

7.3.1 Open Space Advisory Committee Agency (one exclusive appointment - term expires April 2010)

7.4 Police Employees' Pension Board (two non-exclusive appointments of legal residents;

appointing authority should select, from the best qualified persons, minority representation to accurately reflect that population of the area represented by the Board) (term January 2010 - December 2011)

Councilmember Luis made a motion, seconded by Councilmember Starkey, to reappointed Jack Mackie. In a voice vote, all voted in favor. (Motion carried 5-0)

Councilmember Starkey made a motion, seconded by Vice-Mayor Crowley, to appoint Lawrence Davis. In a voice vote, all voted in favor. (Motion carried 5-0)

- 7.5 Fire Employees' Pension Board (two non-exclusive appointments of legal residents; appointing authority should select, from the best qualified persons, minority representation to accurately reflect that population of the area represented by the Board) (term January 2010 - December 2011)

Councilmember Starkey made a motion, seconded by Mayor Paul, to appoint Irv Heller and Joe Valenzuela. In a voice vote, all voted in favor. (Motion carried 5-0)

Councilmember Caletka stated he was removing his appointee to the Site Plan Committee.

8. OLD BUSINESS

8.1 Backflow Inspections Update - Chief Montopoli

Utilities Operations Acting Director Bruce Taylor said staff believed they could create a program that would generate revenue for the Town.

Joe DeStefano explained there were currently 2,641 backflow preventers installed and 2,500 of these were in commercial buildings; no action was required regarding single-family residential backflow preventers. Mr. DeStefano said they had developed three options for private inspections and certifications. Mayor Paul remembered they had discussed having the Town's plumbing inspectors perform these inspections, and she thought they were already conducting them. Mr. DeStefano clarified that plumbing contractors currently inspected installations of backflow preventers.

Chief Montopoli said they wanted to institute a program for annual reinspections. Mr. DeStefano said they had the data and could present it to Council.

Mayor Paul asked to sit down with Mr. Taylor and Mr. DeStefano to discuss the options and they could bring a proposal to Council in January.

Vice-Mayor Crowley asked Mr. Taylor to have Mr. Rayson review this, since it involved entering private property.

Mr. Taylor described the inspection process to Councilmember Luis. Mr. DeStefano explained the Town would not perform the testing, private contractors would.

9. NEW BUSINESS

9.1 Police/Fire Memorial Plaques - Councilmember Starkey

Councilmember Starkey explained that the plaques recognizing the individuals were missing. She asked staff to look into pricing for the plaques and to provide that information to Council sometime in January.

9.2 Davie Travel Center Right-of-Way - Councilmember Caletka

Councilmember Caletka said the Travel Center needed a letter for FDOT in order to move forward. John Tanella, representing the Davie Travel Center, said he was here to get Council's approval to erect an FDOT-approved sign in the Burris and Oaks right-of-way.

Councilmember Caletka made a motion, seconded by Councilmember Luis, to direct staff to write the letter of approval. In a voice vote, all voted in favor. (Motion carried 5-0)

10. SCHEDULE OF NEXT MEETING

Mr. Muniz reminded Council that the special meeting for the Resource Recover Board started at 6:00 p.m. before the December 16 Council meeting.

11. MAYOR/COUNCILMEMBER'S COMMENTS

COUNCILMEMBER CALETKA

ALLEGED IMPROVEMENTS ON 61ST. Councilmember Caletka said when he drove down 61st Street the cement cap was raised without grading, resulting in a severe bump that could damage a car.

GREEN IDEAS. Councilmember Caletka said a friend had informed him that Fort Lauderdale Code did not prohibit anyone from constructing a wind turbine on his property. Councilmember Caletka felt there would be better alternatives in the future, and the Town should enact an ordinance to prevent someone from constructing a tall pole in a yard for a wind turbine.

595 PROGRESS. Councilmember Caletka had written to many State and Federal representatives regarding the 595 project, including a suggestion that the Town's State Representative sponsor a bill to de-annex 595 from the Town, leaving it to the County to oversee. Representative Evan Jenne had sent him information on the de-annexation process, which Councilmember Caletka remarked was quite simple. The first step was for Council to enact an ordinance that contracted the municipal boundaries, providing an effective date. He wanted to go forward with this to get attention and perhaps have the issue revisited. Chief Montopoli said as a fire rescue agency, it would be very difficult to refuse treatment to anyone. Mr. Shimun felt this would put the Town in a better negotiating position. Mayor Paul suggested putting this on Council's next agenda. Councilmember Caletka said he would contact Evan Jenne's office.

VICE-MAYOR CROWLEY

SITE PLAN COMMITTEE POSITION. Vice-Mayor Crowley offered to fill Councilmember Caletka's appointment on the Site Plan Committee after March, when he would no longer be on the Council.

TOWN ADMINISTRATOR EVALUATION. Vice-Mayor Crowley requested additional time to complete the Town Administrator evaluation. Director of Human Resources Barbara Dupre' said she would provide Council with a summary of the evaluations. There would be no Council discussion.

COUNCILMEMBER STARKEY

PAIN MANAGEMENT CLINIC AGENDA ITEM. Councilmember Starkey requested that discussion of pain management clinic regulation be put on the Council's agenda. She wanted to make dispensing of a controlled substance from a pain management clinic illegal in the Town of Davie. She agreed to prepare an item and provide it to Mr. Rayson for review.

FOREST RIDGE ENTRYWAY. Councilmember Starkey explained that there were archeological parcels in the Forest Ridge entryway, and the main entrance and statue area had still not been transferred over. The issue had been resolved, and the Forest Ridge community would be in possession of their main entryway and statue.

FOREST RIDGE HOLIDAY PARADE AND FAIR. Councilmember Starkey invited everyone to the Forest Ridge Holiday Parade and Fair on December 5 at 1 p.m.

FLORIDA LEGISLATIVE CONFERENCE. Councilmember Starkey had attended the Florida Legislative Conference and the issue of offshore drilling leases had come up. She felt they had reached a fair compromise that the State must study it prior to taking action. Councilmember Starkey thanked Councilmember Caletka for his efforts on the committees.

MAYOR PAUL

THANKS TO MS. STAFIEJ. Mayor Paul thanked Special Projects Director Bonnie Stafiej for organizing the Hillary and Brook Memorial Ride, which had been very successful.

VERTERANS' DAY MEMORIAL SERVICE. Mayor Paul thanked Bill Liebowitz for putting together the Veterans Day event.

AGRICULTURAL ADVISORY BOARD MEETINGS. Mayor Paul had tried to attend a couple of Agricultural Advisory Board meetings to discuss Battens Farms. She provided Vice-Mayor Crowley with a copy of a proposal that had been made regarding Battens Farms.

SKATE PARK. Mayor Paul reminded Mr. Shimun to put the Skate Park on Council's December 16 agenda. Mr. Shimun informed her that the Town was working on a request for funds from the Water Resource Development Act.

HAZARDOUS WASTE COLLECTION AT PINE ISLAND PARK. A resident had called Mayor Paul regarding hazardous waste collection at Pine Island Park, saying she had been told the Town would no longer do this. Staff informed Mayor Paul that the program was still in place, with drop-offs twice per year. Staff agreed to provide specific information to Mayor Paul.

RED LIGHT CAMERAS. Mayor Paul asked if Council wanted to move forward with this. Councilmember Caletka had spoken to a Fort Lauderdale commissioner, who informed him they would not move forward until the lawsuit was settled. He noted that Fort Lauderdale had already approved the cameras' use. Councilmember Starkey said she approved of this, and thought they should get ready to implement it.

HARVARD SEMINAR. Mayor Paul had sent Councilmembers a copy of the agenda from her seminar at Harvard, and remarked that it had been a wonderful experience. Mayor Paul said she had been proud of Davie, and noted that they were faring comparatively well.

LETTER FROM JENNIFER GOTTLIEB. Mayor Paul had received a letter from Jennifer Gottlieb, Chair of the School Board, acknowledging receipt of the Town's resolution on the amendment to the ILA.

SENIOR ADVISORY COMMITTEE PARTY. Mayor Paul announced that the Senior Advisory Committee would host a birthday party for any residents having a 100th birthday.

12. TOWN ADMINISTRATOR'S COMMENTS

None.

13. TOWN ATTORNEY'S COMMENTS

Mr. Rayson reminded Council that the condemnation of the Davie Travel Center property was stalled because the Town did not have the money to purchase the right-of-way for condemnation. One of the company partners had informed Mr. Rayson that he wanted to take a mortgage on the property, and this could only be done if the Town subordinated the lien. Mr. Rayson requested Council's direction to agree to subordinate the lien, and not satisfy it until all of the right-of-way was purchased and the owner fulfilled his portion of the agreement. This would provide the Town the money required to condemn the property needed for the spur road and would also allow police and fire access to the property. The additional access way would ultimately benefit all owners of the property. Council agreed to direct Mr. Rayson to move forward with this.

14. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 10:19 p.m.

Approved _____

Mayor/Councilmember

Town Clerk